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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/716,825

11/18/2003

Gregory Stephanopoulos

MIN-P01-042

7074

28120

7590

06/20/2008

ROPES & GRAY LLP

PATENT DOCKETING 39/41

ONE INTERNATIONAL PLACE

BOSTON, MA 02110-2624

EXAMINER

STEELE, AMBER D

ART UNIT

PAPER NUMBER

1639

MAIL DATE

DELIVERY MODE

06/20/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

***Advisory Action Continued***

The amendment filed May 28, 2008 under 37 CFR 1.116 in reply to the final rejection has been considered but is not deemed to place the application in condition for allowance and will not be entered because of the following:

- a. The proposed amendment requires further consideration and/or search (e.g. the new limitation “SEQ ID NOs: 1-43” of claim 1; new claims 33-37; etc.).
- b. The proposed amendment may necessitate the modification of outstanding rejection(s) to address the new limitation (e.g. the new limitation “SEQ ID NOs: 1-43” of claim 1; new claims 33-37; etc.).
- c. The proposed amendment may necessitate the raising of new prior art rejections (e.g. the new limitation “SEQ ID NOs: 1-43” of claim 1; new claims 33-37; etc.).
- d. The proposed amendment may necessitate the raising of new 112 issues (e.g. the new limitation “SEQ ID NOs: 1-43” of claim 1; “at least 40 genes” of claim 1; new claims 33-37; etc.). Please note: applicants only pointed to pages 12 and 71 and previous Table 1 for support of the claim amendments submitted on May 28, 2008. However, page 12 refers to a subset of 45 genes (claim 9), less than 20 genes, less than 10 genes, and less than 5 genes (i.e. species/range of “at least 40 genes” is not disclosed; page 71 refers to the commercially available GeneChip™ but applicants have not provided information regarding the specific sequences utilized on the GeneChip™; and Table 1 previously only referenced accession numbers, gene names, etc. and not specific sequences. Please note: applicants must show direct support that the specific sequences now claimed corresponded to the accession numbers or gene names in Table

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1 at the time of filing. Gene names may be substituted for the sequences, however, accession numbers would require specific SEQ ID NOs:.

e. There is no convincing evidence under 37 CFR 1.116(b) why the proposed amendment was not earlier presented.

f. Applicants arguments of the prior art of record are moot since the arguments are based on the proposed amendments that have not been entered.

g. For all the reasons above, the amendment does not place the application in better condition for allowance and/or appeal.

#### ***Future Communications***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Amber D. Steele whose telephone number is 571-272-5538. The examiner can normally be reached on Monday through Friday 9:00AM-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James (Doug) Schultz can be reached on 571-272-0763. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

ADS

June 16, 2008

/Jon D. Epperson/

Primary Examiner, AU 1639